

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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| <p>PATRICK LEE BOHALL,</p> <p>Plaintiff,</p> <p>v.</p> <p>UNITED STATES,</p> <p>Defendant.</p> |
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Civil Action 07-00940 (HHK)

MEMORANDUM OPINION

Patrick Lee Bohall (“Bohall”) brings this action for damages against the United States pursuant to 26 U.S.C. § 7431 of the Internal Revenue Code asserting that the IRS improperly disclosed Bohall’s confidential tax return information in letters sent to Bohall’s business associates. The United States has moved for summary judgment, asserting that these disclosures were proper [# 14]. Bohall has not opposed the motion.¹

In determining a motion for summary judgment, Local Civil Rule 7(h) provides that “the court may assume that facts identified by the moving party in its statement of material facts are admitted, unless such a fact is controverted in a statement of genuine issues filed in opposition to the motion.” Because Bohall has provided no countervailing statement of genuine issues of

¹ Because Bohall did not file an Opposition, the United States’ motion is unopposed. Instead, Bohall filed a separate motion in which he argues that, pursuant to Fed. R. Civ. P. 56(f), the court should delay ruling on the United State’s summary judgment motion until after discovery. He also contends that, should the court deny this request, the court should grant an extension of time to respond to the United States’ motion for summary judgment [#16]. The court denies Bohall’s request for discovery for the reasons set forth by the United States in its Opposition. Furthermore, Bohall’s request for an extension of time to file an Opposition is denied.

material fact, the United States' Statement of Material Facts as to Which There is No Genuine Issue is deemed admitted in its entirety.

Pursuant to the Internal Revenue Code, the general rule is that tax return information is confidential and may not be disclosed. 26 U.S.C. § 6103(a). However, there are exceptions to this rule. 26 U.S.C. § 6103(k)(6) and its implementing regulations, 26 C.F.R. § 301.6103(k)(6)-1(a)(1), provide that the IRS may disclose tax return information if: (1) the disclosure is connected to an investigation of an individual's tax liability; (2) the disclosure is necessary to obtain the information sought; and (4) the information sought is not otherwise reasonably available. *Id.*

Here, the undisputed facts show that the IRS was investigating Bohall's unpaid tax liabilities and unfiled tax returns. Mahon Decl. ¶¶ 1-4. The undisputed facts also show that the disclosure was necessary to obtain the information sought, and that the information was not otherwise reasonably available. *Id.* at ¶¶ 7-11. Based on the undisputed facts, the court concludes that the United States is entitled to judgment as a matter of law.

An appropriate order will accompany this memorandum opinion.

Henry H. Kennedy, Jr.
United States District Judge